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6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**

8
9 Anthony Leon,

10 Plaintiff,

11 v.

12 Unknown, et al.,

13 Defendants.
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No. CV 21-01734-PHX-JAT (MTM)

ORDER

15 On October 12, 2021, Plaintiff Anthony Leon, who is confined in the Arizona State
16 Prison Complex-Yuma, filed a pro se civil rights Complaint pursuant to 42 U.S.C. § 1983.
17 In a January 14, 2022 Order, the Court granted Plaintiff in forma pauperis status and
18 dismissed the Complaint because Plaintiff had failed to state a claim. The Court gave
19 Plaintiff 30 days to file an amended complaint that cured the deficiencies identified in the
20 Order.

21 On February 22, 2022, Plaintiff filed his First Amended Complaint (Doc. 13). The
22 Court will dismiss the First Amended Complaint with leave to amend.

23 **I. Statutory Screening of Prisoner Complaints**

24 The Court is required to screen complaints brought by prisoners seeking relief
25 against a governmental entity or an officer or an employee of a governmental entity. 28
26 U.S.C. § 1915A(a). The Court must dismiss a complaint or portion thereof if a plaintiff
27 has raised claims that are legally frivolous or malicious, that fail to state a claim upon which
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1 relief may be granted, or that seek monetary relief from a defendant who is immune from
 2 such relief. 28 U.S.C. § 1915A(b)(1)–(2).

3 A pleading must contain a “short and plain statement of the claim *showing* that the
 4 pleader is entitled to relief.” Fed. R. Civ. P. 8(a)(2) (emphasis added). While Rule 8 does
 5 not demand detailed factual allegations, “it demands more than an unadorned, the-
 6 defendant-unlawfully-harmed-me accusation.” *Ashcroft v. Iqbal*, 556 U.S. 662, 678
 7 (2009). “Threadbare recitals of the elements of a cause of action, supported by mere
 8 conclusory statements, do not suffice.” *Id.*

9 “[A] complaint must contain sufficient factual matter, accepted as true, to ‘state a
 10 claim to relief that is plausible on its face.’” *Id.* (quoting *Bell Atlantic Corp. v. Twombly*,
 11 550 U.S. 544, 570 (2007)). A claim is plausible “when the plaintiff pleads factual content
 12 that allows the court to draw the reasonable inference that the defendant is liable for the
 13 misconduct alleged.” *Id.* “Determining whether a complaint states a plausible claim for
 14 relief [is] . . . a context-specific task that requires the reviewing court to draw on its judicial
 15 experience and common sense.” *Id.* at 679. Thus, although a plaintiff’s specific factual
 16 allegations may be consistent with a constitutional claim, a court must assess whether there
 17 are other “more likely explanations” for a defendant’s conduct. *Id.* at 681.

18 But as the United States Court of Appeals for the Ninth Circuit has instructed, courts
 19 must “continue to construe *pro se* filings liberally.” *Hebbe v. Pliler*, 627 F.3d 338, 342
 20 (9th Cir. 2010). A “complaint [filed by a pro se prisoner] ‘must be held to less stringent
 21 standards than formal pleadings drafted by lawyers.’” *Id.* (quoting *Erickson v. Pardus*, 551
 22 U.S. 89, 94 (2007) (per curiam)).

23 If the Court determines that a pleading could be cured by the allegation of other
 24 facts, a pro se litigant is entitled to an opportunity to amend a complaint before dismissal
 25 of the action. *See Lopez v. Smith*, 203 F.3d 1122, 1127-29 (9th Cir. 2000) (en banc).
 26 Plaintiff’s First Amended Complaint will be dismissed for failure to state a claim, but
 27 because it may possibly be amended to state a claim, the Court will dismiss it with leave
 28 to amend.

1 **II. First Amended Complaint**

2 Plaintiff names Arizona Department of Corrections Director David Shinn and
 3 Unknown Intake Officers Doe 1, Doe 2, and Doe 3 as Defendants in his three-count First
 4 Amended Complaint. Plaintiff seeks money damages.

5 Plaintiff alleges that on February 18, 2021, during the intake process at the
 6 Alhambra Intake Center, Plaintiff was told by a correctional officer that he had to cut his
 7 hair. Plaintiff explained to the officer that because of his religious beliefs, he could not cut
 8 his hair. Plaintiff claims the officer told him that he was getting his hair cut whether he
 9 liked it or not. Plaintiff alleges the officer started to raise her voice, “which got the attention
 10 of all staff in the room.” Plaintiff claims more officers came over and he was told “you
 11 will comply or we will tie you to a chair and cut your hair anyway, you might get hurt in
 12 the process.” Plaintiff alleges a lieutenant then “showed up . . . and told [him] his officer
 13 will hurt [Plaintiff] if [Plaintiff doesn’t] cut [his] hair, so [Plaintiff needed] to let them cut
 14 [his] hair before [he got] hurt.” Plaintiff states “I do believe that is a threat to harm me; I
 15 don’t believe that qualifies as protecting my safety.” He claims that “after a few
 16 moments[,] the lieutenant pointed to a gurney[,] so I let them cut my hair.”

17 Plaintiff asserts Defendants’ actions violated his First Amendment rights (Count
 18 One), right to be free from excessive force (Count Two), and Fourteenth Amendment
 19 rights (Count Three).

20 **III. Failure to State a Claim**

21 **A. Defendant Shinn**

22 To state a valid claim under § 1983, plaintiffs must allege that they suffered a
 23 specific injury as a result of specific conduct of a defendant and show an affirmative link
 24 between the injury and the conduct of that defendant. *See Rizzo v. Goode*, 423 U.S. 362,
 25 371-72, 377 (1976). There is no respondeat superior liability under § 1983, and therefore,
 26 a defendant’s position as the supervisor of persons who allegedly violated Plaintiff’s
 27 constitutional rights does not impose liability. *Monell v. Dep’t of Soc. Servs.*, 436 U.S. 658
 28 (1978); *Hamilton v. Endell*, 981 F.2d 1062, 1067 (9th Cir. 1992); *Taylor v. List*, 880 F.2d

1 1040, 1045 (9th Cir. 1989). “Because vicarious liability is inapplicable to *Bivens* and
 2 § 1983 suits, a plaintiff must plead that each Government-official defendant, through the
 3 official’s own individual actions, has violated the Constitution.” *Iqbal*, 556 U.S. at 676.

4 Plaintiff has not alleged that Defendant Shinn personally participated in a
 5 deprivation of Plaintiff’s constitutional rights, was aware of a deprivation and failed to act,
 6 or formed policies that resulted in Plaintiff’s injuries. Plaintiff has therefore failed to state
 7 a claim against Defendant Shinn.

8 **B. Threat to Safety and Excessive Force**

9 The Eighth Amendment, as applied to the states through the Fourteenth
 10 Amendment, prohibits the infliction of cruel and unusual punishment for convicted
 11 prisoners. *Jones v. Johnson*, 781 F.2d 769, 771 (9th Cir. 1986). The Fourteenth
 12 Amendment standard applies to conditions of confinement for pretrial detainees. *Bell v.*
 13 *Wolfish*, 441 U.S. 520, 535 (1979). Because Plaintiff was convicted at the time of the
 14 incident in question, the Court will evaluate his claims under the Eighth Amendment.

15 When an inmate claims that prison officials violated his Eighth Amendment rights
 16 by using excessive physical force, the relevant inquiry is “whether force was applied in a
 17 good-faith effort to maintain or restore discipline, or maliciously and sadistically to cause
 18 harm.” *Hudson v. McMillian*, 503 U.S. 1, 7 (1992). However, the Supreme Court has
 19 made it clear that not every use of physical force violates the Eighth Amendment:

20 That is not to say that every malevolent touch by a prison guard
 21 gives rise to a federal cause of action. *See Johnson v. Glick*,
 22 481 F.2d [1028, 1033 (2nd Cir. 1973)] (“Not every push or
 23 shove, even if it may later seem unnecessary in the peace of a
 judge’s chambers, violates a prisoner’s constitutional rights”).

24 *Id.* at 9.

25 Plaintiff has failed to state an Eighth Amendment excessive force claim because he
 26 does not allege that Defendants used physical force on him maliciously or sadistically to
 27 cause harm. Plaintiff therefore fails to state an excessive force claim.

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To state an Eighth Amendment threat-to-safety claim, plaintiffs must meet a two-part test. “First, the alleged constitutional deprivation must be, objectively, sufficiently serious” such that the “official’s act or omission must result in the denial of the minimal civilized measure of life’s necessities.” *Farmer v. Brennan*, 511 U.S. 825, 834 (1994) (internal quotations omitted). Second, the prison official must have a “sufficiently culpable state of mind,” i.e., he must act with “deliberate indifference to inmate health or safety.” *Id.* (internal quotations omitted). Deliberate indifference is a higher standard than negligence or lack of ordinary due care for the prisoner’s safety. *Id.* at 835. In defining “deliberate indifference” in this context, the Supreme Court has imposed a subjective test: “the official must both be aware of facts from which the inference could be drawn that a substantial risk of serious harm exists, *and* he must also draw the inference.” *Id.* at 837 (emphasis added).

Plaintiff has not alleged facts showing Defendants were deliberately indifferent to a serious risk of harm to Plaintiff’s health or safety or that he suffered an injury as a result of Defendants’ actions. Moreover, verbal threats are insufficient to state a § 1983 claim. See *Gaut v. Sunn*, 810 F.2d 923, 925 (9th Cir. 1987) (defendants’ threats of bodily harm to convince plaintiff not to pursue legal redress were insufficient to state a claim under § 1983; “it trivializes the eighth amendment to believe a threat constitutes a constitutional wrong”); *Oltarzewski v. Ruggiero*, 830 F.2d 136, 139 (9th Cir. 1987) (“[v]erbal harassment or abuse . . . is not sufficient to state a constitutional deprivation under 42 U.S.C. § 1983” (quoting *Collins v. Cundy*, 603 F.2d 825, 827 (10th Cir. 1979))); see also *McFadden v. Lucas*, 713 F.2d 143, 146 (5th Cir. 1983) (“mere threatening language and gestures . . . do not, even if true, amount to constitutional violations” (quoting *Coyle v. Hughes*, 436 F. Supp. 591, 593 (W.D. Okla. 1977))). Accordingly, Plaintiff has failed to excessive force or threat-to-safety claims.

C. Religion

To state a First Amendment, free-exercise-of-religion claim, a plaintiff must allege that a defendant burdened the practice of plaintiff’s religion by preventing him from

1 engaging in a sincerely held religious belief and that the defendant did so without any
 2 justification reasonably related to legitimate penological interests. *Shakur v. Schriro*, 514
 3 F.3d 878 (9th Cir. 2008). Similarly, under the Religious Land Use and Institutionalized
 4 Persons Act of 2000 (RLUIPA), a government may not impose a substantial burden on the
 5 religious exercise of a confined person unless the government establishes that the burden
 6 furthers a “compelling governmental interest” and does so by “the least restrictive means.”
 7 42 U.S.C. § 2000cc-1(a)(1)-(2).

8 Plaintiff does not identify the religious beliefs that prohibit him from cutting his
 9 hair; does not allege that cutting his hair prevents him from engaging in a sincerely held
 10 religious belief or substantially burdens his religious exercise; and does not allege that
 11 Defendants had no legitimate penological interest in requiring Plaintiff to cut his hair.
 12 Plaintiff has therefore failed to state a First Amendment or RLUIPA claim.

13 **IV. Leave to Amend**

14 For the foregoing reasons, the Court will dismiss Plaintiff’s First Amended
 15 Complaint for failure to state a claim upon which relief may be granted. Within 30 days,
 16 Plaintiff may submit a second amended complaint to cure the deficiencies outlined above.
 17 The Clerk of Court will mail Plaintiff a court-approved form to use for filing a second
 18 amended complaint. If Plaintiff fails to use the court-approved form, the Court may strike
 19 the second amended complaint and dismiss this action without further notice to Plaintiff.

20 Plaintiff must clearly designate on the face of the document that it is the “Second
 21 Amended Complaint.” The second amended complaint must be retyped or rewritten in its
 22 entirety on the court-approved form and may not incorporate any part of the original
 23 Complaint or First Amended Complaint by reference. Plaintiff may include only one claim
 24 per count.

25 In each count, Plaintiff must write short, plain statements telling the Court: (1) the
 26 constitutional right Plaintiff believes was violated; (2) the name of the Defendant who
 27 violated the right; (3) exactly what that Defendant did or failed to do; (4) how the action or
 28 inaction of that Defendant is connected to the violation of Plaintiff’s constitutional right;

1 and (5) what specific injury Plaintiff suffered because of that Defendant's conduct. *See*
 2 *Rizzo*, 423 U.S. at 371-72, 377.

3 Plaintiff must repeat this process for each person he names as a Defendant. If
 4 Plaintiff fails to affirmatively link the conduct of each named Defendant with the specific
 5 injury suffered by Plaintiff, the allegations against that Defendant will be dismissed for
 6 failure to state a claim. **Conclusory allegations that a Defendant or group of**
 7 **Defendants has violated a constitutional right are not acceptable and will be**
 8 **dismissed.**

9 A second amended complaint supersedes the original Complaint and First Amended
 10 Complaint. *Ferdik v. Bonzelet*, 963 F.2d 1258, 1262 (9th Cir. 1992); *Hal Roach Studios v.*
 11 *Richard Feiner & Co.*, 896 F.2d 1542, 1546 (9th Cir. 1990). After amendment, the Court
 12 will treat the original Complaint and First Amended Complaint as nonexistent. *Ferdik*,
 13 963 F.2d at 1262. Any cause of action that was raised in the original Complaint or First
 14 Amended Complaint and that was voluntarily dismissed or was dismissed without
 15 prejudice is waived if it is not alleged in a second amended complaint. *Lacey v. Maricopa*
 16 *County*, 693 F.3d 896, 928 (9th Cir. 2012) (en banc).

17 **V. Warnings**

18 **A. Release**

19 If Plaintiff is released while this case remains pending, and the filing fee has not
 20 been paid in full, Plaintiff must, within 30 days of his release, either (1) notify the Court
 21 that he intends to pay the unpaid balance of his filing fee within 120 days of his release or
 22 (2) file a *non-prisoner* application to proceed in forma pauperis. Failure to comply may
 23 result in dismissal of this action.

24 **B. Address Changes**

25 Plaintiff must file and serve a notice of a change of address in accordance with Rule
 26 83.3(d) of the Local Rules of Civil Procedure. Plaintiff must not include a motion for other
 27 relief with a notice of change of address. Failure to comply may result in dismissal of this
 28 action.

1 **C. Possible “Strike”**

2 Because the First Amended Complaint has been dismissed for failure to state a
 3 claim, if Plaintiff fails to file a second amended complaint correcting the deficiencies
 4 identified in this Order, the dismissal may count as a “strike” under the “3-strikes”
 5 provision of 28 U.S.C. § 1915(g). Under the 3-strikes provision, a prisoner may not bring
 6 a civil action or appeal a civil judgment in forma pauperis under 28 U.S.C. § 1915 “if the
 7 prisoner has, on 3 or more prior occasions, while incarcerated or detained in any facility,
 8 brought an action or appeal in a court of the United States that was dismissed on the
 9 grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be
 10 granted, unless the prisoner is under imminent danger of serious physical injury.” 28
 11 U.S.C. § 1915(g).

12 **D. Possible Dismissal**

13 If Plaintiff fails to timely comply with every provision of this Order, including these
 14 warnings, the Court may dismiss this action without further notice. *See Ferdik*, 963 F.2d
 15 at 1260-61 (a district court may dismiss an action for failure to comply with any order of
 16 the Court).

17 **IT IS ORDERED:**

18 (1) The First Amended Complaint (Doc. 13) is **dismissed** for failure to state a
 19 claim. Plaintiff has **30 days** from the date this Order is filed to file a second amended
 20 complaint in compliance with this Order.

21 (2) If Plaintiff fails to file a second amended complaint within 30 days, the Clerk
 22 of Court must, without further notice, enter a judgment of dismissal of this action with
 23 prejudice that states that the dismissal may count as a “strike” under 28 U.S.C. § 1915(g)
 24 and deny any pending unrelated motions as moot.

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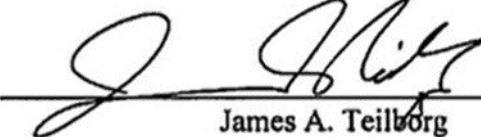
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1 (3) The Clerk of Court must mail Plaintiff a court-approved form for filing a
2 civil rights complaint by a prisoner.

3 Dated this 4th day of April, 2022.
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James A. Teilborg
Senior United States District Judge

**Instructions for a Prisoner Filing a Civil Rights Complaint
in the United States District Court for the District of Arizona**

1. **Who May Use This Form.** The civil rights complaint form is designed to help incarcerated persons prepare a complaint seeking relief for a violation of their federal civil rights. These complaints typically concern, but are not limited to, conditions of confinement. **This form should not be used to challenge your conviction or sentence.** If you want to challenge a state conviction or sentence, you should file a petition under 28 U.S.C. § 2254 for a writ of habeas corpus by a person in state custody. If you want to challenge a federal conviction or sentence, you should file a motion under 28 U.S.C. § 2255 to vacate sentence in the federal court that entered the judgment.
2. **The Form.** **Local Rule of Civil Procedure (LRCiv) 3.4 provides that complaints by incarcerated persons must be filed on the court-approved form.** The form must be typed or neatly handwritten. The form must be completely filled in to the extent applicable. All questions must be answered clearly and concisely in the appropriate space on the form. If needed, you may attach additional pages, **but no more than fifteen additional pages**, of standard letter-sized paper. You must identify which part of the complaint is being continued and number all pages. If you do not fill out the form properly, you will be asked to submit additional or corrected information, which may delay the processing of your action. You do not need to cite law.
3. **Your Signature.** You must tell the truth and sign the form. If you make a false statement of a material fact, you may be prosecuted for perjury.
4. **The Filing and Administrative Fees.** The total fees for this action are \$402.00 (\$350.00 filing fee plus \$52.00 administrative fee). If you are unable to immediately pay the fees, you may request leave to proceed in forma pauperis. Please review the “Information for Prisoners Seeking Leave to Proceed with a (Non-Habeas) Civil Action in Federal Court In Forma Pauperis Pursuant to 28 U.S.C. § 1915” for additional instructions.
5. **Original and Judge's Copy.** You must send an **original plus one copy** of your complaint and of any other documents submitted to the Court. You must send one additional copy to the Court if you wish to have a file-stamped copy of the document returned to you. All copies must be identical to the original. Copies may be legibly handwritten. **This section does not apply to inmates housed at an Arizona Department of Corrections facility that participates in electronic filing.**
6. **Where to File.** You should file your complaint in the division **where you were confined when your rights were allegedly violated.** See LRCiv 5.1(a) and 77.1(a). If you were confined in Maricopa, Pinal, Yuma, La Paz, or Gila County, file in the Phoenix Division. If you were confined in Apache, Navajo, Coconino, Mohave, or Yavapai County, file in the Prescott Division. If you were confined in Pima, Cochise, Santa Cruz, Graham, or Greenlee County, file in the Tucson Division. **Mail the original and one copy of the complaint with the \$402 filing and administrative fees or the application to proceed in forma pauperis to:**

Phoenix & Prescott Divisions:
U.S. District Court Clerk
U.S. Courthouse, Suite 130
401 West Washington Street, SPC 10
Phoenix, Arizona 85003-2119

OR

Tucson Division:
U.S. District Court Clerk
U.S. Courthouse, Suite 1500
405 West Congress Street
Tucson, Arizona 85701-5010

7. **Change of Address.** You must immediately notify the Court and the defendants in writing of any change in your mailing address. **Failure to notify the Court of any change in your mailing address may result in the dismissal of your case.**

8. **Certificate of Service.** You must furnish the defendants with a copy of any document you submit to the Court (except the initial complaint and application to proceed in forma pauperis). Each original document (except the initial complaint and application to proceed in forma pauperis) must include a certificate of service on the last page of the document stating the date a copy of the document was mailed to the defendants and the address to which it was mailed. *See Fed. R. Civ. P. 5(a), (d).* Any document received by the Court that does not include a certificate of service may be stricken. **This section does not apply to inmates housed at an Arizona Department of Corrections facility that participates in electronic filing.**

A certificate of service should be in the following form:

I hereby certify that a copy of the foregoing document was mailed
this _____ (month, day, year) to:

Name: _____
Address: _____

Attorney for Defendant(s)

(Signature)

9. **Amended Complaint.** If you need to change any of the information in the initial complaint, you must file an amended complaint. The amended complaint must be written on the court-approved civil rights complaint form. You may file one amended complaint without leave (permission) of Court within 21 days after serving it or within 21 days after any defendant has filed an answer, whichever is earlier. *See Fed. R. Civ. P. 15(a).* Thereafter, you must file a motion for leave to amend and lodge (submit) a proposed amended complaint. LRCiv 15.1. In addition, an amended complaint may not incorporate by reference any part of your prior complaint. LRCiv 15.1(a)(2). **Any allegations or defendants not included in the amended complaint are considered dismissed.** All amended complaints are subject to screening under the Prison Litigation Reform Act; screening your amendment will take additional processing time.

10. **Exhibits.** You should not submit exhibits with the complaint or amended complaint. Instead, the relevant information should be paraphrased. You should keep the exhibits to use to support or oppose a motion to dismiss, a motion for summary judgment, or at trial.

11. **Letters and Motions.** It is generally inappropriate to write a letter to any judge or the staff of any judge. The only appropriate way to communicate with the Court is by filing a written pleading or motion.

12. Completing the Civil Rights Complaint Form.

HEADING:

1. Your Name. Print your name, prison or inmate number, and institutional mailing address on the lines provided.
2. Defendants. If there are **four or fewer** defendants, print the name of each. If you name **more than four** defendants, print the name of the first defendant on the first line, write the words “and others” on the second line, and attach an additional page listing the names of **all** of the defendants. Insert the additional page after page 1 and number it “1-A” at the bottom.
3. Jury Demand. If you want a jury trial, you must write “JURY TRIAL DEMANDED” in the space below “CIVIL RIGHTS COMPLAINT BY A PRISONER.” Failure to do so may result in the loss of the right to a jury trial. A jury trial is not available if you are seeking only injunctive relief.

Part A. JURISDICTION:

1. Nature of Suit. Mark whether you are filing the complaint pursuant to 42 U.S.C. § 1983 for state, county, or city defendants; “*Bivens v. Six Unknown Federal Narcotics Agents*” for federal defendants; or “other.” If you mark “other,” identify the source of that authority.
2. Location. Identify the institution and city where the alleged violation of your rights occurred.
3. Defendants. Print all of the requested information about each of the defendants in the spaces provided. If you are naming more than four defendants, you must provide the necessary information about each additional defendant on separate pages labeled “2-A,” “2-B,” etc., at the bottom. Insert the additional page(s) immediately behind page 2.

Part B. PREVIOUS LAWSUITS:

You must identify any other lawsuit you have filed in either state or federal court while you were a prisoner. Print all of the requested information about each lawsuit in the spaces provided. If you have filed more than three lawsuits, you must provide the necessary information about each additional lawsuit on a separate page. Label the page(s) as “2-A,” “2-B,” etc., at the bottom of the page and insert the additional page(s) immediately behind page 2.

Part C. CAUSE OF ACTION:

You must identify what rights each defendant violated. The form provides space to allege three separate counts (**one violation per count**). If you are alleging more than three counts, you must provide the necessary information about each additional count on a separate page. Number the additional pages “5-A,” “5-B,” etc., and insert them immediately behind page 5. Remember that you are limited to a total of fifteen additional pages.

1. **Counts.** You must identify which civil right was violated. **You may allege the violation of only one civil right per count.**
2. **Issue Involved.** Check the box that most closely identifies the issue involved in your claim. **You may check only one box per count.** If you check the box marked "Other," you must identify the specific issue involved.
3. **Supporting Facts.** After you have identified which civil right was violated, you must state the supporting facts. Be as specific as possible. You must state what each individual defendant did to violate your rights. If there is more than one defendant, you must identify which defendant did what act. You also should state the date(s) on which the act(s) occurred, if possible.
4. **Injury.** State precisely how you were injured by the alleged violation of your rights.
5. **Administrative Remedies.** You must exhaust any available administrative remedies before you file a civil rights complaint. *See 42 U.S.C. § 1997e.* Consequently, you should disclose whether you have exhausted the inmate grievance procedures or administrative appeals for each count in your complaint. If the grievance procedures were not available for any of your counts, fully explain why on the lines provided.

Part D. REQUEST FOR RELIEF:

Print the relief you are seeking in the space provided.

SIGNATURE:

You must sign your name and print the date you signed the complaint. Failure to sign the complaint will delay the processing of your action. Unless you are an attorney, you may not bring an action on behalf of anyone but yourself.

FINAL NOTE

You should follow these instructions carefully. Failure to do so may result in your complaint being stricken or dismissed. All questions must be answered concisely in the proper space on the form. If you need more space, you may attach no more than fifteen additional pages. But the form must be completely filled in to the extent applicable. If you attach additional pages, be sure to identify which section of the complaint is being continued and number the pages.

Name and Prisoner/Booking Number _____

Place of Confinement _____

Mailing Address _____

City, State, Zip Code _____

(Failure to notify the Court of your change of address may result in dismissal of this action.)

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

_____,
(Full Name of Plaintiff)

Plaintiff,

v.

(1) _____,
(Full Name of Defendant)

(2) _____,

(3) _____,

(4) _____,

Defendant(s).

Check if there are additional Defendants and attach page 1-A listing them.

CASE NO. _____

(To be supplied by the Clerk)

**CIVIL RIGHTS COMPLAINT
BY A PRISONER**

- Original Complaint
- First Amended Complaint
- Second Amended Complaint

A. JURISDICTION

1. This Court has jurisdiction over this action pursuant to:

- 28 U.S.C. § 1343(a); 42 U.S.C. § 1983
- 28 U.S.C. § 1331; *Bivens v. Six Unknown Federal Narcotics Agents*, 403 U.S. 388 (1971).
- Other: _____.

2. Institution/city where violation occurred: _____.

B. DEFENDANTS

1. Name of first Defendant: _____ . The first Defendant is employed as: _____ at _____ .
(Position and Title) (Institution)
2. Name of second Defendant: _____ . The second Defendant is employed as:
as: _____ at _____ .
(Position and Title) (Institution)
3. Name of third Defendant: _____ . The third Defendant is employed
as: _____ at _____ .
(Position and Title) (Institution)
4. Name of fourth Defendant: _____ . The fourth Defendant is employed
as: _____ at _____ .
(Position and Title) (Institution)

If you name more than four Defendants, answer the questions listed above for each additional Defendant on a separate page.

C. PREVIOUS LAWSUITS

1. Have you filed any other lawsuits while you were a prisoner? Yes No
2. If yes, how many lawsuits have you filed? _____. Describe the previous lawsuits:
 - a. First prior lawsuit:
 1. Parties: _____ v. _____
 2. Court and case number: _____
 3. Result: (Was the case dismissed? Was it appealed? Is it still pending?) _____ .
 - b. Second prior lawsuit:
 1. Parties: _____ v. _____
 2. Court and case number: _____
 3. Result: (Was the case dismissed? Was it appealed? Is it still pending?) _____ .
 - c. Third prior lawsuit:
 1. Parties: _____ v. _____
 2. Court and case number: _____
 3. Result: (Was the case dismissed? Was it appealed? Is it still pending?) _____ .

If you filed more than three lawsuits, answer the questions listed above for each additional lawsuit on a separate page.

D. CAUSE OF ACTION

COUNT I

1. State the constitutional or other federal civil right that was violated: _____

2. **Count I.** Identify the issue involved. Check **only one**. State additional issues in separate counts.

Basic necessities Mail Access to the court Medical care
 Disciplinary proceedings Property Exercise of religion Retaliation
 Excessive force by an officer Threat to safety Other: _____.

- 3. Supporting Facts.** State as briefly as possible the FACTS supporting Count I. Describe exactly what each Defendant did or did not do that violated your rights. State the facts clearly in your own words without citing legal authority or arguments.

4. **Injury.** State how you were injured by the actions or inactions of the Defendant(s).

- ## **5. Administrative Remedies:**

- a. Are there any administrative remedies (grievance procedures or administrative appeals) available at your institution? Yes No

b. Did you submit a request for administrative relief on Count I? Yes No

c. Did you appeal your request for relief on Count I to the highest level? Yes No

d. If you did not submit or appeal a request for administrative relief at any level, briefly explain why you did not. _____

COUNT II

1. State the constitutional or other federal civil right that was violated: _____

2. **Count II.** Identify the issue involved. Check **only one**. State additional issues in separate counts.

Basic necessities Mail Access to the court Medical care
 Disciplinary proceedings Property Exercise of religion Retaliation
 Excessive force by an officer Threat to safety Other: _____.

- 3. Supporting Facts.** State as briefly as possible the FACTS supporting Count II. Describe exactly what each Defendant did or did not do that violated your rights. State the facts clearly in your own words without citing legal authority or arguments.

4. **Injury.** State how you were injured by the actions or inactions of the Defendant(s).

- ## **5. Administrative Remedies.**

- a. Are there any administrative remedies (grievance procedures or administrative appeals) available at your institution? Yes No

b. Did you submit a request for administrative relief on Count II? Yes No

c. Did you appeal your request for relief on Count II to the highest level? Yes No

d. If you did not submit or appeal a request for administrative relief at any level, briefly explain why you did not. _____

COUNT III

1. State the constitutional or other federal civil right that was violated: _____

_____.

2. **Count III.** Identify the issue involved. Check **only one**. State additional issues in separate counts.

Basic necessities Mail Access to the court Medical care
 Disciplinary proceedings Property Exercise of religion Retaliation
 Excessive force by an officer Threat to safety Other: _____.

3. **Supporting Facts.** State as briefly as possible the FACTS supporting Count III. Describe exactly what **each Defendant** did or did not do that violated your rights. State the facts clearly in your own words without citing legal authority or arguments.

- 4. Injury.** State how you were injured by the actions or inactions of the Defendant(s).

5. **Administrative Remedies.**

 - a. Are there any administrative remedies (grievance procedures or administrative appeals) available at your institution? Yes No
 - b. Did you submit a request for administrative relief on Count III? Yes No
 - c. Did you appeal your request for relief on Count III to the highest level? Yes No
 - d. If you did not submit or appeal a request for administrative relief at any level, briefly explain why you did not. _____

If you assert more than three Counts, answer the questions listed above for each additional Count on a separate page.

E. REQUEST FOR RELIEF

State the relief you are seeking:

I declare under penalty of perjury that the foregoing is true and correct.

Executed on _____
DATE

SIGNATURE OF PLAINTIFF

(Name and title of paralegal, legal assistant, or other person who helped prepare this complaint)

(Signature of attorney, if any)

(Attorney's address & telephone number)

ADDITIONAL PAGES

All questions must be answered concisely in the proper space on the form. If you need more space, you may attach no more than fifteen additional pages. But the form must be completely filled in to the extent applicable. If you attach additional pages, be sure to identify which section of the complaint is being continued and number all pages.